

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4436 of 1997

to

FIRST APPEAL No 4451 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

EXECUTIVE ENGINEER

Versus

BHABHLUBHAI TAPUBHAI

Appearance:

MR PG DESAI, GOVERNMENT PLEADER for Appellants

MR PM BHATT for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 16/04/98

ORAL COMMON JUDGEMENT (PER : Y.B.BHATT, J)

At the joint request of the ld. counsel for the respective parties, these appeals are taken up for final

hearing today.

2. These are appeals filed on behalf of the State of Gujarat under Sec.54 of the Land Acq. Act read with Sec.96 of the C.P.Code, challenging the common judgment and awards passed by the Reference Court under Sec.18 of the said Act.

3. As a result of the hearing and discussion, it appears to us on a tentative basis that the market value determined by the Reference Court in respect of the lands under acquisition may perhaps be slightly on the higher side and that there is some small scope for reduction. On the basis of this tentative view, we have perused the impugned judgment and awards, and also referred to such evidence as considered necessary by the ld. counsel for the respective parties. As a result of this exercise, the ld. counsel for the respondents- original claimants made an offer in the nature of a consensus that some small reduction in the market value may be justified, and that he is prepared to leave the extent of this reduction to us, without going to a detailed discussion into the merits of the matter based on the specific evidence on record. In the context of this development, we invited the opinion of the ld. counsel for the appellants, who was also willing to leave this aspect to us.

4. On the basis of the aforesaid consensus, we have applied our minds to the facts and circumstances of the case, and taking an over all view of the matter, we determine the market value of the lands under acquisition at Rs. 85/ per Are for Jirayat lands and Rs. 135/ per Are for Bagayat lands.

4.1 Further more, we may add that the phraseology employed by the Reference Court is likely to lead to a certain confusion. We, therefore, clarify that the respondents -claimants shall also be entitled to solatium at the rate of 30% on the compensation based upon the market value as determined by us herein.

4.2 Further more, the respondents-claimants shall be further entitled to a further amount under Sec.23(1-A) computed at the rate of 12% p.a. on the market value determined by us, for the period starting from the date of publication of a notification under Sec.4, till the date of the award of the Collector or the date of taking possession of the lands whichever is earlier.

4.3 In addition to the above, the respondents claimants shall be further entitled under Sec.28 of the said Act to interest at the rate of 9% p.a. on the

difference between the amount of the award and the amount determined on the basis of the market value determined by us herein, for the first year starting from the date on which the Collector took the possession of the lands, and at the rate of 15% p.a. starting from the second year till the date of payment or deposit in the Court.

5. To this extent, therefore, the impugned judgment and awards shall stand modified and the appeals will consequently stand partly allowed. Decree accordingly. There shall be no orders as to costs.

000000000

*rawal